

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

HANOVER INSURANCE COMPANY, as subrogor of  
Joseph P. Day Realty Corp.,

Plaintiff,

-against-

NY FIRETECH, INC., and NY FIRE, LLC,

Defendants.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 2/23/2022

1:21-cv-2728-MKV

ORDER

MARY KAY VYSKOCIL, United States District Judge:

On November 4, 2021, the Court scheduled an initial pretrial conference for this case for December 9, 2021 at 10:00 AM. [ECF No. 21]. Pursuant to that order, the parties were directed to submit a Proposed Case Management Plan and Scheduling Order **and joint letter**, as required by this Court's Individual Rules of Practice **one week prior to the conference date**. [ECF No. 21]. On December 3, 2021, the Court adjourned the conference because the parties had not complied with the Court's order. [ECF No. 22]. The Court explained, for a second time, the information the joint letter should include. [ECF No. 22].

The parties subsequently filed letters requesting to adjourn the initial pretrial conference because they were making progress towards amicably resolving this matter, which the Court granted. [ECF Nos. 24, 26]. The latest Court order adjourned the initial pretrial conference to February 22, 2022. [ECF No. 26]. However, for a second time, one week prior to the initial pretrial conference, the parties failed to comply with the Court's order to submit a Proposed Case Management Plan and Scheduling Order **and joint letter** one week prior to the conference date. [ECF No. 27]. As such, the Court adjourned the initial pretrial conference to March 1, 2022. [ECF No. 27]. The Court ordered the parties to file, no later than February 22, 2022, their **joint**

**letter and proposed case management plan in accordance with the Court's order dated November 4, 2021, and section C.3 of the individual rules of this Court.** [ECF No. 27].

In the Court's order dated November 4, 2021, the Court specified that the joint letter should include:

1. A brief statement of the nature of the case, the principal claims and defenses, and the major legal and factual issues that are most important to resolving the case;
2. A brief statement by the plaintiff, or by the defendant in removed cases, as to the basis of subject matter jurisdiction and venue, and a brief statement by each other party as to the presence or absence of subject matter jurisdiction and venue. Statements shall include citations to relevant statutes. In cases invoking the Court's diversity jurisdiction, the parties should state both the place of incorporation and the principal place of business of any party that is a corporation, and the citizenship of all members, shareholders, partners, and/or trustees of any party that is a partnership, limited partnership, limited liability company, or trust;
3. A statement of procedural posture, including
  - a. A brief description of any (i) motions that have been made and decided, (ii) motions that any party seeks or intends to file, including the principal legal and other grounds in support of and opposition to the motion, (iii) pending motions and (iv) other applications that are expected to be made at the conference;
  - b. A brief description of any discovery that has already taken place, and a brief description of any discovery that the parties intend to take in the future; and
  - c. A statement describing the status of any settlement discussions and whether the parties would like a settlement conference; and
4. Any other information the parties believe may assist the Court in resolving the action.

On February 21, 2022, the parties filed a case management plan. [ECF No. 28]. However, the parties have, for a third time, failed to comply with the Courts orders in filing the joint letter.

Instead, Plaintiff unilaterally filed a letter advising the Court as to the status of settlement discussions. [ECF No. 29]. That letter does not contain any of the information that the Court has ordered the parties to provide on three separate occasions.

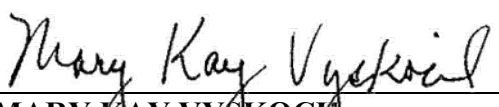
As such, IT IS HEREBY ORDERED, that the parties shall file a **JOINT** letter on or before February 25, 2022. That **JOINT** letter shall include:

1. A brief statement of the nature of the case, the principal claims and defenses, and the major legal and factual issues that are most important to resolving the case;
2. A brief statement by the plaintiff, or by the defendant in removed cases, as to the basis of subject matter jurisdiction and venue, and a brief statement by each other party as to the presence or absence of subject matter jurisdiction and venue. Statements shall include citations to relevant statutes. In cases invoking the Court's diversity jurisdiction, the parties should state both the place of incorporation and the principal place of business of any party that is a corporation, and the citizenship of all members, shareholders, partners, and/or trustees of any party that is a partnership, limited partnership, limited liability company, or trust;
3. A statement of procedural posture, including
  - a. A brief description of any (i) motions that have been made and decided, (ii) motions that any party seeks or intends to file, including the principal legal and other grounds in support of and opposition to the motion, (iii) pending motions and (iv) other applications that are expected to be made at the conference;
  - b. A brief description of any discovery that has already taken place, and a brief description of any discovery that the parties intend to take in the future; and
  - c. A statement describing the status of any settlement discussions and whether the parties would like a settlement conference; and
4. Any other information the parties believe may assist the Court in resolving the action.

**THE COURT WILL NOT ADJOURN THE INITIAL PRETRIAL CONFERENCE**  
**A THIRD TIME DUE TO THE PARTIES NONCOMPLIANCE WITH THE COURT'S**  
**ORDERS AND INDIVIDUAL RULES. THE PARTIES ARE ADMONISHED THAT**  
**THE FAILURE TO FILE THE JOINT LETTER ON OR BEFORE FEBRUARY 25, 2022**  
**WILL RESULT IN SANCTIONS.**

**SO ORDERED.**

**Date: February 23, 2022**  
**New York, NY**

  
**MARY KAY VYSKOCIL**  
**United States District Judge**